

ORDINANCE NO. 09-68

ORDINANCE GRANTING A
CONDITIONAL USE PERMIT (CUP) TO
ALLOW A HOUSE OF WORSHIP
PURSUANT TO HIALEAH CODE §98-
181(2)f, GRANTING A VARIANCE
PERMIT TO ALLOW 3 PARKING
SPACES, WHERE AT LEAST 31 ARE
REQUIRED, SO LONG AS VACANT ON-
SITE PARKING SPACES ARE USED
FOR PARKING DURING AFTER-HOURS
ACTIVITIES AND SERVICES, CONTRA
TO HIALEAH CODE § 98-2189(4)i, ON
PROPERTY ZONED M-1 (INDUSTRIAL
DISTRICT). **PROPERTY LOCATED AT
1652 WEST 41 STREET, HIALEAH,
FLORIDA.** REPEALING ALL
ORDINANCES OR PARTS OF
ORDINANCES IN CONFLICT
HEREWITH; PROVIDING PENALTIES
FOR VIOLATION HEREOF; PROVIDING
FOR A SEVERABILITY CLAUSE; AND
PROVIDING FOR AN EFFECTIVE
DATE.

WHEREAS, the Planning and Zoning Board at its meeting of May 27, 2009, recommended approval of this ordinance; and

WHEREAS, the petitioner proffered a declaration of restrictive covenants limiting the hours of worship on Sundays, to begin after 11:00 a.m. and ending no later than 5:00 p.m., and on nights only for the other days of the week, and in particular, from Monday through Thursday, from 8:00 p.m. to 11:00 p.m., on Friday and Saturday nights, from 8:00 p.m to 12:00 p.m., and containing off-street parking to on-site without spillover or parking in abutting and adjacent areas or residential neighborhoods, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance is hereby adopted and incorporated as if fully set forth herein.

Section 2: The below-described property is hereby granted a conditional use permit (CUP) to allow a house of worship on property zoned M-1 (Industrial District) and

a variance permit is hereby granted to allow 3 parking spaces, where 31 are required, so long as vacant on-site parking spaces are used for parking during after-hours activities and services, contra to Hialeah Code §98-289(4)i, which provides in pertinent part: "*Places of worship*. One parking space for each 40 square feet of gross floor area of the main auditorium (sanctuary), chapels and other rooms used for general assembly and recreation, and classrooms." The property is located at 1652 West 41 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOTS 3 AND 4, IN BLOCK 1, OF LONG GREEN INDUSTRIAL SITES, ACORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 119, AT PAGE 19, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Additional Penalties upon Violation of Conditions of Use.

Any change of the terms and conditions of the use identified in this ordinance and as provided in the Declaration of Restrictive Covenants, if submitted, will cause a revocation of the Special Use Permit and of the city occupational license issued in connection herewith and the property shall revert to the zoning classification without the benefit of the special use.

Section 6: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent

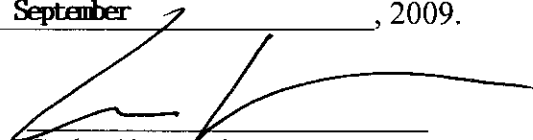
jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 7: Effective Date.

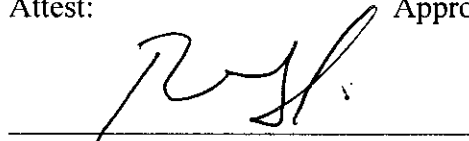
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8th day of September, 2009.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

Attest: Approved on this ____ day of _____, 2009.


Rafael E. Granado, City Clerk

MAYOR'S SIGNATURE WITHHELD
Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Hernandez and Yedra voting "Yes", and Councilmember Gonzalez absent.

P21



Prepared by and Return to:
City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

CFN 2009R0913197
OR Bk 27124 Pgs 4785 - 4790; (6pgs)
RECORDED 12/22/2009 14:25:46
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

**DECLARATION OF RESTRICTIVE COVENANTS -
SPECIAL USE PERMIT**
(Corporate)

(I) (WE), Edward A. Barber

Being the owner(s) of lands described herein: Lots 3 and 4, Block 1, Long Green Industrial Sites, according to the plat thereof, as recorded in Plat Book 119, at Page 19, of the Public Records of Miami-Dade County, Florida. Folio No. 04-3002-081-0030.

also known as: K & B Properties, LLC

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. The undersigned is seeking an application for an approval of Special Use Permit (SUP) for the property to permit its use for (a) (an): Church

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. The use of the property shall be limited as follows: Church Services will be held the following hours: Monday through Thursday 8:00 P.M. to 11:00 P.M., Friday and Saturday 8:00 P.M. to 12:00 A.M. and Sunday 11:00 A.M. to 5:00 P.M. In addition, it is agreed that Tabernaculo De Alabanza Y Adoracion "Jesus El Cristo" will have the church members park only on the property located at 1652 West 41 Street, Hialeah, Fl, during church services. We also agree not to block or occupy any parking spaces or driveways of the adjacent apartment buildings or homes in this or surrounding areas/
2. This instrument shall not become effective unless and until the undersigned's application for Special Use Permit in connection with the property is approved by the Hialeah City Council by the adoption of an ordinance and such ordinance becomes law. Upon becoming effective, this instrument shall be recorded in the Public Records of Miami-Dade County, Florida and constitute a covenant running with the title to the land described above, binding upon the undersigned and its successors and assigns.
3. This instrument and the restrictions set forth herein maybe modified, amended or released as to any portion of the land described above by written instrument executed by the then owner of the fee simple title to the lands to be affected by such modification, amendment, release, and approved after public hearing by the City Council of the City of Hialeah. Should this instrument be so modified, amended or

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0.8
0.9.6

**DECLARATION OF RESTRICTIVE COVENANTS -
SPECIAL USE PERMIT (Corporate)**

released by the City Council, the Director of Planning Division shall execute a written instrument that shall be recorded in the Public Records of Miami-Dade County effectuating and acknowledging such modification, amendment or release.

4. Where Construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.
5. It is understood that if the application is approved, the undersigned must comply with all applicable Federal, State, County, City laws, rules, and regulations. It is further understood that Hialeah Code §98-165 provides as follows:

“Any change of the special use listed on the application for a special use permit and as provided in the declaration of restrictive covenants submitted in connection therewith will be in violation of this division and will cause revocation of the occupational license. The property shall revert as provided by the Charter to the zoning classification, without the benefit of the special use that existed prior to the approval of the use.”

(LEFT INTENTIONALLY BLANK)

DECLARATION OF RESTRICTIVE COVENANTS -
SPECIAL USE PERMIT (Corporate)

IN WITNESS WHEREOF, We have hereunto set our hands and seals at

1652 W 41 ST

this 4 day of SEPTEMBER 2009

(Location)

Signed, sealed and delivered in the presence of:

Attest:

Corporate Secretary

Corporate Name: K & B PROPERTIES LLC

By: Edward Barber
President

Typed/ Printed Name

EDWARD BARBER

Typed/Printed Name

Witness

Typed/Printed Name:

Witness

Typed/Printed Name:

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 4 day of SEPTEMBER, 2009 as President,

EDWARD BARBER and

(Name of Officer or Agent)

(Name of Secretary)

K & B PROPERTIES LLC

FLORIDA

corporation, on behalf of

(Name of Corporation)

(State of Incorporation)

the corporation.

They are personally known to me or have produced the following G.C. 13616.221.26.262.0 as identification and did (did not) take an oath and attested to the truth and accuracy of the representations contained herein.



Signature of Notary

Name of Notary typed, printed, or stamped

Commission No.

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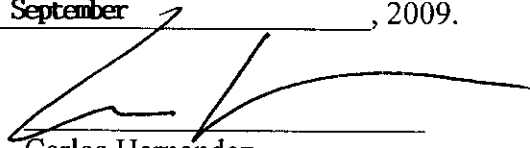
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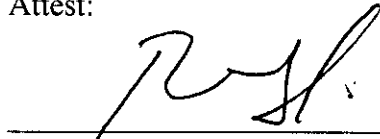
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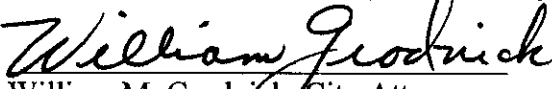

Carlos Hernandez
Council President

Attest: Approved on this ____ day of _____, 2009.


Rafael E. Granado, City Clerk

MAYOR'S SIGNATURE WITHHELD
Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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